

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Newport News Division)**

No. _____

NICHOLAS W. CUPP

Plaintiff,

V.

**DELTA AIR LINES, INC., ENDEAVOR AIR,
INC., and CHERYL THOMAS,**

Defendants.

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NOTICE OF REMOVAL

(Circuit Court Case No. 700CL2105644T-00)

NOTICE OF REMOVAL

COMES NOW, DELTA AIR LINES, INC., ENDEAVOR AIR, INC., and CHERYL THOMAS, (hereinafter “Defendants”), by counsel, who submit the following Notice of Removal of this case from the Circuit Court for the City of Newport News, Virginia to the United States District Court for the Eastern District of Virginia, Newport News Division, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

1. Plaintiff, NICHOLAS W. CUPP (hereinafter “Plaintiff”) commenced this action on December 21, 2021 in the Circuit Court of Newport News in the Commonwealth of Virginia; the Circuit Court action was assigned Case Number 700CL2105644T-00. A copy of the Summons, Complaint, and other papers or exhibits as required by the Local Rules of Court, are attached as “**Exhibit A**”.

2. The Notice of Service of Process reflects service of process in the State Court action upon Defendants on February 18, 2022.

3. 28 U.S.C. §§ 1332(a)(1) states: “the district courts shall have original jurisdiction

of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between...citizens of different States”

4. 28 U.S.C. §§ 1332(c)(1) further states: “a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business....”

5. In Paragraph 1 of Plaintiff’s Complaint, Plaintiff states he is a citizen and resident of Paragould, Arkansas.

6. In Paragraph 3 of Plaintiff’s Complaint, Plaintiff states that Defendant Delta Air Lines, Inc. (hereinafter “Delta”) is a Delaware corporation. Delta maintains its principal place of business in Atlanta, Georgia.

7. In Paragraph 5 of Plaintiff’s Complaint, Plaintiff states that Endeavor Air, Inc. (hereinafter “Endeavor Air”) is a Georgia corporation. Endeavor Air maintains its principal place of business in Minneapolis, Minnesota.

8. In Paragraph 7 of Plaintiff’s Complaint, Plaintiff states that Defendant Cheryl Thomas (hereinafter “Defendant Thomas”) is a resident and citizen of the state of North Carolina.

9. In Paragraph 63 of Plaintiff’s Complaint (Plaintiff’s demand), he demands judgment against the Defendants for compensatory damages in the amount of Ten Million Dollars (\$10,000,000.00) and punitive damages plus interest in the amount of Three Hundred Fifty Thousand Dollars (\$350,000.00).

10. Because of the facts stated above, there is complete diversity in this case, and the amount of controversy requirement pursuant to 28 U.S.C. § 1446(c)(2) has been met.

11. As such, the Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332.

12. This Notice of Removal is being filed within thirty (30) days of February 18, 2022, the date of service upon Defendants.

13. As such, removal is timely under 28 U.S.C. § 1446.

14. Removal to the Newport News Division of the United States District Court for the Eastern District of Virginia is proper under 28 U.S.C. § 1441(a), as the State Court action was initiated by Plaintiff in Newport News, Virginia, which is located within this District/Division.

15. Undersigned counsel for Defendants certifies that she will file a copy of the Notice of Removal with the Clerk of Court for Newport News, Virginia and will give notice of same to Plaintiff's counsel William E. Johnson, Cory R. Ford, and Peter A. Pentony at their respective firm addresses.

WHEREFORE, Defendants pray for removal of this cause of action to the United States District Court for the Eastern District of Virginia (Newport News Division), and for a stay of all proceedings in the State Circuit Court action.

Wilson Elser Moskowitz Edelman & Dicker LLP

By: /s/ Kathryn A. Grace

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Attorney for Defendants

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing NOTICE OF REMOVAL was electronically filed with the Court using the CM/ECF system and was served by First Class mail, postage prepaid, to the following:

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/s/ Kathryn A. Grace
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